

06/28/2012 07:34 FAX

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6/28/12 Carl Bistrack/US Patent &amp; Trademark Office Refunds Dept/Patent #6036385

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June 28, 20012

FROM:

Carl Bistrack  
10013 Jeanes Street #2  
Philadelphia, PA 19116  
215.676.8175  
[cbistrack@dextek.com](mailto:cbistrack@dextek.com)

TO: US PATENT OFFICE  
ATTN: REFUNDS  
FAX #: (571) 273.6500

Adjustment date: 07/16/2012 GARIAS  
08/18/2011 INTNIFEE 00006639 6036385  
01 FC:2553 -2055.00 OP

REGARDING: PATENT # 6,036,385 A CIP BASED ON A SECOND PATENT# 5,626,430 CIP DATED MAY 1994  
& ORIGINAL PATENT DATED 1991

To whom it may concern,  
I have been advised by the Patent Office Legal Department to contact the Fee Refunds Section for a full refund of the final maintenance fee payment made. It was not due. I am requesting a refund on the patent fee of \$2,055.00 paid on August 18, 2011. It is a mistaken fee as I am given to understand. At nearly the same time, I was advised by persons at the Inventors Assistance Center that the patent is still in force. The Patent is in my name Carl Bistrack. I am not an attorney. I cannot afford the expense of an attorney. In the past 10 years I have followed advice given by the US Patent and Trademark Office divisions for appropriate Patent and Trademark proper handling and maintenance.

The patent # 6,036,385 was issued on March 14<sup>th</sup>, 2000. I was advised by the fees division the 11<sup>th</sup> year final maintenance patent fee was due. I also reviewed the published information on the internet: I had reviewed this published information prior to paying the fee.  
I have had to handle the fees directly and not through any attorney or agent.

Patent Maintenance Fees		07/03/2011 12:30 PM EDT	
Patent Number:	6036385	Application Number:	08848841
Issue Date:	03/14/2000	Filing Date:	04/30/1997
Window Opens:	03/14/2011	Surcharge Date:	09/15/2011
Window Closes:	03/14/2012	Payment Year:	12
Entity Status:	SMALL		
Customer Number:	3624		
Address:	VOLPE AND KOENIG, P.C. UNITED PLAZA 30 SOUTH 17TH STREET PHILADELPHIA PA 19103		
Phone Number:	(215) 568-6400	Refund Ref:	07/16/2012 0030113511
Fee Code:	2553	Fee Code Amount:	\$2,055.00
Surcharge Fee Code:		Surcharge Fee Code Amount:	\$0.00
Total Fees Due:		\$2,055.00	

\$2055.00

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To ensure correct follow-up details on the patent maintenance I made several phone calls to the fees division for details on the patent. After several calls, each to clarify the status and legality of the patents and instructions to submit the maintenance fee, I completed the on-line internet application as instructed and submitted the 11<sup>th</sup> year fee on 8/18/11

Two months later on 10/27/11, I called the fees division again to ensure the payment was made properly, and patent was in force. I was given the positive answer. Alisha informed me that: The patent fee for \$2,055.00 is paid and patent #6036385 is in force.

From recent information received from the Patent Office Legal Department in June of 2012, I am likely to be in difficulty in the near future. Note: I had made calls to the Patent Office Inventors Assistance Center the weeks of June 18<sup>th</sup> and 25<sup>th</sup> I received 3 different answers. The inquiry reference number is 1-215943844.

- The first answer of the call asking about the patent status was that the patent was grandfathered due to the new CIP law in '95 and as such the patent # 6036385 is valid for 17 years - to 2017.
  - The second answer was the Patent is no longer in force due to the original patent the CIP is based on dated 1991. The patent expired 2011.
  - The third answer was the patent is still in force until 2020
  - One answer mentioned
- The Patent # 6,036,385 and CIP is based on the prior patent # 5,626,430 Application # 08/237,525 Filed: May 3, 1994 Issued May 3, 1997. This was discussed at one of the conversations giving the # 6,036,385 patent 20 years from this issue date May 3, 1997

I am asking if the validity of the patent and process is in question. Is the patent in full force?

In the Inventors Assistance Center I talked with BOB, STAN, and PHILLIP - two- three different days. Though Phillip said the patent is in full force he suggested I talk with the Legal Department. I was then transferred to the Legal department and discussed this with the legal department person JOY. I let her know the information I was given each time. She said she would look into it. Joy did call me several hours later to refer to the new '95 law which indicated the patent a CIP was expired based on the date of the original patent in 1991. It expired 20 years later 2011. I was told to contact the Fee Refunds Division for a refund of the maintenance fee that was not due and was overpaid.

A day later, I again called the legal department to get confirmation of the information. The person Joy was not in that day. Another person, a male, repeated the same information again. I was told to contact the Fee Refunds Division.

There were two events just weeks prior to my contacting the Patent Office Inventors Assistance Center:  
The following information occurred in May and the beginning of June 2012 approximately 8 months after the positive Patent-In-Force information was provided by the Patent Office. There was no hesitation on my part to promote the patented products due to the information I received and payment of the final fee to the Patent Office:

**Event One:**

On May 22, 2012 aware that the Patent is still in effect until March 2020, I presented the products covered by the Patent to several companies specializing in Direct Response Television promotion sales. This was through the Invention Home Company. The presentation meeting was known as the DRTV Presentation at the Robert Morris University in Pittsburgh PA. The products and active patent term to 2020 were part of the presentation. I followed up with several of the companies after the meeting.

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Event Two:

The beginning of June, 2012 I discovered that a part of this patent was copied by a company in France selling their product in the US before 2012. This part is the front end of the ergonomic EzGrip® Pen. I was upset by this. For advice, I asked an attorney if this is something that could be reviewed to stop the copies. They did a quick search and told me due to the CIP issue, the patent was no longer in force as of 2011. This is completely opposite of what I was told and advised earlier by the Patent Office fees division. It was then I made calls to the Patent Office

I now find the patent and my livelihood are in jeopardy.  
Please refer to the decision on the life of the patent. What is the appropriate answer to this?

If the patent has expired, please refund the erroneous and undue maintenance fee of \$2,055. paid at that time in August 2011.

If there are any questions, please contact me by phone 215.676.8175 or email [cbistrack@dextek.com](mailto:cbistrack@dextek.com)  
Sincerely



Carl Bistrack  
6/28/2012

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND					08/848841	
1 Date of Request: <u>7-16-12</u>		2 Serial/Patent # <u>6,036,385</u>				
3 Please refund the following fee(s):			4 PAPER NUMBER	5 DATE FILED	6 AMOUNT	
	Filing				\$	
	Amendment				\$	
	Extension of Time				\$	
	Notice of Appeal/Appeal				\$	
	Petition				\$	
	Issue				\$	
	Cert of Correction/Terminal Disc.				\$	
	Maintenance			8-18-11	\$ 2,055	
	Assignment				\$	
	Other				\$	
			7 TOTAL AMOUNT OF REFUND		\$ 3,055	
			8 TO BE REFUNDED BY: <u>CC</u>			
10 REASON:			Treasury Check			
	Overpayment	Credit Deposit A/C #: <div style="border: 1px solid black; display: inline-block; padding: 2px;">             9    <span style="border: 1px solid black; padding: 0 5px;"> </span> <span style="border: 1px solid black; padding: 0 5px;"> </span> <span style="border: 1px solid black; padding: 0 5px;"> </span> <span style="border: 1px solid black; padding: 0 5px;"> </span> <span style="border: 1px solid black; padding: 0 5px;"> </span> <span style="border: 1px solid black; padding: 0 5px;"> </span> <span style="border: 1px solid black; padding: 0 5px;"> </span> <span style="border: 1px solid black; padding: 0 5px;"> </span> </div>				
	Duplicate Payment					
	No Fee Due (Explanation):					
<u>Patent not reinstated.</u>						
11 REFUND REQUESTED BY:						
TYPED/PRINTED NAME: <u>Karen Creasy</u>			TITLE: <u>Petitions Examiner</u>			
SIGNATURE: _____			PHONE: <u>(571) 272 3208</u>			
OFFICE: <u>Office of Petitions</u>						
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****						
APPROVED: <u>[Signature]</u>			DATE: <u>07/16/12</u>			

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: